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SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 25th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 4 April 2002, at 10 a.m.

Chairperson: Mr. JAKUBOWSKI (Poland)

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* The summary record of the second part (closed) of the meeting appears as document E/CN.4/2002/SR.25/Add.1.

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The meeting was called to order at 10.10 a.m.

ECONOMIC, SOCIAL AND CULTURAL RIGHTS (agenda item 10) (E/CN.4/2002/50, 51 and Add.1, 52 and Add.1, 53, 54, 55 and Add.1, 56, 57, 58 and Add.1, 59 and Corr.1, 60 and Add.1 and 2, 61, 62, 132, 133, 141, 148 and 161; E/CN.4/2002/NGO/3, 4, 6, 24, 37, 48, 59, 66-69, 92, 121-123, 179-181 and 198-200; A/55/342; E/CN.4/Sub.2/2001/10 and 13)

1. Mr. ZIEGLER (Special Rapporteur on the right to food), introducing his report (E/CN.4/2002/58 and Add.1), said that despite the fact that global wealth and resources were sufficient to provide food for everyone, some 100,000 people died every day of hunger or hunger-related diseases.

2. The right to food would be a powerful tool for the victims of hunger, if the matter could be subjected to the jurisdiction of the courts. Making the right to food justiciable at the regional, national and international levels was therefore a priority. South Africa had been the first country to design a model to make access to food a justiciable right.

3. The aggressive liberalization and privatization strategies of the Bretton Woods institutions, and the World Trade Organization (WTO), often rendered useless the work done by agencies such as the World Health Organization (WHO) and the United Nations Children's Fund (UNICEF) to help the world's most deprived people. The Washington Consensus opposed the right to food, focusing instead on privatization, deregulation, macroeconomic stability and budget cuts. However, as Joseph Stiglitz, winner of the 2001 Nobel Prize for Economics, had remarked, the States that governed the Bretton Woods institutions had also ratified the Convention on Economic, Social and Cultural Rights; a contradiction that had catastrophic consequences for the developing world.

4. The recent WTO Ministerial Conference in Doha had opened a new round of trade negotiations but had not taken into account the right to food or other economic and social rights. He urged those involved in trade negotiations to recognize the importance of such rights.

5. The economic sanctions imposed by the United States against Cuba represented a violation of the population's right to food, as did the economic embargo imposed by the Security Council against Iraq. In his capacity as Special Rapporteur, he had received many complaints from international, Palestinian and, above all, Israeli non-governmental organizations (NGOs), about the closure of occupied territories in the Middle East, which prevented the Palestinians from having access to food and water. He recommended that those economic sanctions and blockades be lifted immediately.

6. In view of the fact that the World Food Summit was to be held in Rome in June 2002, he urged States to accept the idea of an optional protocol to the Convention on Economic, Social and Cultural Rights, granting individuals the right to submit complaints directly to the Committee. The right to food had to be recognized as an integral part of international humanitarian law, so that in armed conflicts, for example, both parties would be obliged to respect the right of civilians and prisoners to food.

7. Ms. LIZIN (Independent expert on the question of human rights and extreme poverty), introducing her fourth report (E/CN.4/2002/55 and Add.1 and 2), said that, by its resolution 2000/12, the Commission had asked her to incorporate into her analysis the views and experiences of the main parties concerned with the eradication of extreme poverty, namely, Governments, national human rights bodies and NGOs. Consequently, questionnaires had been distributed to those parties, and also to groups of the poorest people in Bolivia and Benin. The response had been very good, indicating a strong will to participate in the implementation of economic, social and cultural rights.

8. In Bolivia, interviews had been held with the Aymara population in the town of Ayo Ayo and the population of the El Alto shanty town. Work had also been carried out with shoeshine children in La Paz. The questionnaires revealed the overriding desire of those interviewed to attend school and to learn a profession. Very few expressed any strong feelings about the Government.

9. In Benin, a seminar had been held in Atacora, the most poverty-stricken area. In Natitingou, she had worked closely with a group of elderly women from five different tribes who had formed an association and worked as roadsweepers so as to prevent themselves from being excluded from the system. It was essential to support such initiatives. She had worked side by side with a mission from the World Bank. The illiterate population was highly influenced by traditional structures, which did not encourage the development of health or education. Efforts had to be made to reconcile State structures, traditional structures and programmes to promote development. Several meetings had been held with President Kerekou to discuss how to take a human rights-based approach to the implementation of poverty reduction strategy papers (PRSPs) prepared by the Government in collaboration with the World Bank and the International Monetary Fund (IMF). It was hoped that other countries would follow Benin's example.

10. The report contained eleven recommendations relating, inter alia, to the promotion of decentralization, increased inheritance rights for women and free legal assistance. She recognized that it was unrealistic and unfeasible to demand the abolition of the Bretton Woods system, and instead suggested that some simple amendments should be made to the Articles of Agreement so as to incorporate the protection of human rights.

11. Ms. OUHACHI-VESELY (Special Rapporteur on the adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights), introducing her report (E/CN.4/2002/61), said she regretted that an addendum containing details of six new cases of the abusive use of toxic products, involving the United States, United Kingdom and the Netherlands, had not been made available, with the comments of the Governments concerned.

12. She had recently carried out a mission to the United States, but had been unable to submit a report thereon as all the documentation had been delayed for security checks connected with the anthrax scare. She appreciated the interest shown by the United States authorities and NGOs in her mission and thanked them for their assistance, despite the difficult circumstances the country had been undergoing. The results of that mission would be made available to the Commission at its fifty-ninth session.

13. Her report focused primarily on factors that had arisen in the course of 2001. She emphasized that the analyses of the adverse effects of toxic waste and products contained in her previous reports continued to be valid. She thanked the Governments and NGOs that had provided comments or information on the issue and encouraged States to share their national experience. She commended the efforts made by the Government of Venezuela to prevent the illicit movement of toxic products and to help victims to file complaints. The Government of the Netherlands had also taken steps to stop the illegal export of waste to other European countries and developing countries.

14. Some developments had occurred in the dispute between the families of Haitian victims and the Dutch company Vos BV. The case involved the contamination of a syrup with anti-freeze agents used for vehicles, that had resulted in the deaths of at least 48 children in Haiti. The Prosecutor in the Netherlands had informed her that an out-of-court settlement had been reached, whereby the company had agreed to pay compensation to the Dutch Government. However, the compensation represented a sum of €4,700 for each victim. Once the court costs and legal fees had been deducted, each family would receive a pitiful amount. She expressed her frustration that such cases brought against multinational companies, especially by poor countries, so frequently ended with an out-of-court settlement in which the circumstances, facts and victims' rights were not brought to light.

15. Most cases served to reinforce her belief that there was a close link between the illicit movement of toxic products and poverty. Developing countries had always been used as dumping grounds because they did not have the resources to control and prevent illicit trade. Even though African countries had started to fight against the movement of such products, they still had to deal with huge stocks of hazardous wastes. Donor countries must ensure that enough funding was available to implement the programme of action adopted by the First Continental Conference for Africa on the Environmentally Sound Management of Unwanted Stocks of Hazardous Wastes, held in Rabat in 2001.

16. Research conducted over the last 10 years had shown that poor and marginalized people, migrant workers, people of colour and indigenous people had suffered most from the movement of wastes and the abusive use of toxic products and pesticides.

17. Ms. TOMAŠEVSKI (Special Rapporteur on the right to education) said that she was introducing three reports, her annual report (E/CN.4/2002/60) and the reports on her missions to the United States of America (E/CN.4/2002/60/Add.1) and to Turkey (E/CN.4/2002/60/Add.2). As the limit on speaking time made it impossible for her to present the reports in detail, she would try to summarize them by confirming the issues that had been a constant theme for the past four years.

18. When the Commission had established the mandate of the Special Rapporteur on the right to education, one of its major aims had been to enhance the visibility of education within the realm of human rights and that meant proving that those working in human rights had something to contribute which was not already being done in education. The key priority facing the Commission was the elimination of financial obstacles, a priority at both the domestic and international levels. She was pleased to report that, at the international level, progress had been made isn the ongoing dialogue with the World Bank and the principal recommendation from

her 2001 annual report had been implemented - the Bank had carried out an in-house survey of the charging of fees in primary schools. The dialogue had thus moved from identifying the problem towards solving it.

19. One particularly important contribution which could be made to education from a human rights point of view involved the making of budgetary allocations for education legally obligatory rather than discretionary at the global, domestic and local levels. Another area which had been a constant factor in her work was the need to create rights-based indicators so as to translate the principle of non-discrimination into operative rules. Indicators did not exist either domestically or internationally which could reveal exclusion - particularly of children from primary school education - and that meant that there was still a huge amount of work to be done.

20. She had identified two areas in which she required the assistance of Member States. In the first place, she needed information on the practice of States in recognizing and legally enforcing the right to education. To date, she had received 27 responses from Governments but was anxious to receive more so as to have a more representative sample in 2003. Secondly, she needed the support of the Commission in carrying out country missions, having recently had a request for a mission refused by the Government of Ethiopia, the first such refusal in four years. She therefore urged the Commission to facilitate the task of its special rapporteurs by reversing cases of non-cooperation with its thematic procedures.

21. Mr. SEYDOU (Observer for Niger) said that, although the Special Rapporteur on the right to food had spent most of his visit in the interior of Niger, he had also met members of the Government, members of parliament and representatives of the technical departments of the ministries. He had also met leaders of political parties, including those of the opposition, representatives of associations for the defence of human rights, NGOs and the members of the National Human Rights and Fundamental Freedoms Commission, all evidencing the fact that he had had free access to all the elements required to discharge his mandate - as clearly reflected in his report to the Commission.

22. While congratulating the Special Rapporteur on his excellent work, he wished to mention certain points which the Special Rapporteur had been unable to investigate thoroughly due to his very short stay in Niger.

23. The Special Rapporteur had asked whether the attachment of the National Committee for Early Warning and the Food Crisis Management Cell to the Prime Minister's Office limited their independence. In fact, the opposite was true: the two organs had the authority to fulfil their mission more effectively and officials were quicker to transmit information when the demand came from an authority so close to the chief decision-maker. However, both organs enjoyed total independence.

24. The Special Rapporteur had noted the encouraging fact that social, economic and cultural rights were being popularized in Niger, in spite of setbacks regarding women's rights that were due to a certain rise in religious fundamentalism. His delegation did not accept the latter conclusion. On the contrary, as a result of the recent ratification of a number of conventions, such as the Convention on the Elimination of All Forms of Discrimination against Women, and an increase in the number of women receiving education, there was a greater awareness among

women of their rights. Although over 80 per cent of the population practised Islam, there was no phenomenon of fundamentalism in Niger. Demonstrations by small groups of individuals were accepted in the name of freedom of expression, conscience and association, rights enshrined in the Constitution of Niger.

25. The Special Rapporteur had also wished to see full independence for the National Human Rights and Fundamental Freedoms Commission. That organization had been set up under article 33 of the Constitution of Niger, its members being appointed by presidential decree after being selected from a number of organizations representing all areas of society. The political authorities did not intervene in the selection process and, to ensure its independence, the Commission was granted its own special operating budget.

26. Mr. LAOUROU (Observer for Benin), having congratulated the independent expert on the question of human rights and extreme poverty on her report (E/CN.4/2002/55), said that she had enjoyed full access to all national structures during her visit, since Benin was a country which permitted freedom of expression and criticism. His delegation wished to comment on two points in the report, the social dimension in structural adjustment programmes and the organization and participation of the people in the decentralization of power.

27. His Government had already made some significant efforts to integrate social needs into development initiatives. A draft strategy for combating poverty was being formulated and the comments of the independent expert would be incorporated into that document. As for the participation of the general public in the eradication of poverty, organization in that field was already far advanced. In respect of access to microcredit, improvement of civil society, the role of the tribal chiefs and other points made in the report, his Government was making efforts to improve the country's institutional framework so as to ensure that the people generally would be able to benefit from such development programmes.

28. In her report, the independent expert had quoted a figure concerning the cost of operations for civil society in Benin and the corresponding burden on the national budget. His delegation would like clarification of that figure.

29. Trafficking of children had often been referred to in connection with his country and he wished to point out that it was a perversion of the traditional practice of fostering children with relatives or guardians to assist in their social and moral development. The perverted practice had been exposed and his authorities were taking steps to halt it with the cooperation of neighbouring countries. Benin devoted almost one third of its budgetary resources to satisfying the social needs of its population and he appealed for the help of the international community to support his country in its ongoing efforts.

30. Mr. ALBA VALDERRAMA (Observer for Bolivia) said he welcomed the report by the independent expert on extreme poverty, in particular the recommendations for a more effective strategy to combat it. Bolivia had high indices of poverty and had developed a strategy for tackling the problems involved which was currently being implemented. Over the past five years, his Government had initiated a national dialogue with all sectors of the economy. The resulting national plan of action was based on four pillars: opportunity, fairness, institutionalization and dignity for all.

31. Drug trafficking had been reduced as a result of the cut in the production of illicit coca crops. Substitute sources of income had been created, especially for the extremely poor. During the last five years, his Government had unilaterally reduced the area devoted to illicit drug crops by over 90 per cent and had thus removed some 240 tonnes of illicit drugs from the markets of the industrialized countries. He estimated that it had stopped illegal exports worth about 3 to 5 per cent of its GDP, but the result had been a 12 per cent increase in unemployment. It had devised plans for alternative crops such as pineapples, bananas, palm hearts and passion fruit, mainly for export. The situation would remain precarious, however, if the industrial countries did not open up their markets to Bolivian goods and support his country in other ways.

32. Mr. SUNGAR (Observer for Turkey) said that, unlike some Governments, which questioned the impartiality of special rapporteurs and were thus reluctant to receive them, his Government had always cooperated fully with the Commission and, in that spirit, had invited the Special Rapporteur on the right to education to visit Turkey. However, the Special Rapporteur's approach to preparing her report (E/CN.4/2002/60/Add.2) and her abrasive style in carrying out her work had led his Government to have some sympathy with those that refused to accept visits by special rapporteurs. It was not so much that it took exception to the Special Rapporteur's strong criticism - it had always accepted criticism in the past, provided it was constructive and well-intentioned - as that it had the impression that the Special Rapporteur had already reached her conclusions before her visit and wished merely to confirm her preconceived ideas.

33. Her attempt to question the Turkish constitutional system, the inappropriate and baseless references she had made to the role of the military within the political structure and her simplistic analysis of the country's national security concerns were cases in point. She had even dared to criticize Turkey for past historical and political issues that had no bearing whatsoever on her mandate and had made unfounded allegations.

34. The Special Rapporteur might take his delegation's strong reaction to be an indication of her professional achievement. That misconception, however, would contravene her stated objective of establishing and improving dialogue and cooperation with the members of the Commission. Her approach did not serve the purpose of protecting and promoting human rights but only harmed the credibility of the human rights mechanisms. It was to be hoped that the report did not set a precedent.

35. His Government would, in due course, comment in detail on the substance of the report.

36. Mr. HENSHAW (Observer for the United States of America) said that he wished to correct an inaccuracy in the statement by the Special Rapporteur on the right to food. His Government had legalized food sales to Cuba in 2000. In late 2001, the Cuban Government had dropped its initial refusal to purchase food from the United States and, in 2002, had bought US$ 70 million worth. Since 1992, the United States had also been the largest foreign source of humanitarian aid to Cuba.

37. By almost any measurement and in almost every agricultural area, Cuba produced less than it had 40 years earlier. It was, for example, the only Latin American country that produced less rice than it had in 1957. Its failure to feed its own people was the result not of the United States embargo but of its own failed economic system.

STATEMENT BY THE DEPUTY MINISTER FOR FOREIGN AFFAIRS OF BOSNIA AND HERZEGOVINA

38. Mr. BLAGOJEVIC (Bosnia and Herzegovina) said that the past year had seen progress in all areas in the promotion and protection of human rights in Bosnia and Herzegovina. Constitutional reforms soon to be completed would guarantee the equality of the three constituent peoples and give a further significant impetus to democratization. He expressed his gratitude to the members of the international community for their assistance in that process.

39. Bosnia and Herzegovina was in a state of transition from a socialist to a market economy and the new democratic governing coalition attached great importance to compliance with international human rights obligations. In 2001, there had been some important achievements in implementing annex 7 to the Dayton Peace Agreement concerning the return of refugees and displaced persons to their homes. He hoped that, with the political and financial support of the international community, the process would be accelerated during 2002 and the coming years. Financial support was required to accelerate the return process and the key issue was self-sustainability, which was related to economic and social rights.

40. His Government was cooperating fully with the International Criminal Tribunal for the former Yugoslavia on the prosecution of indicted war criminals, not only to ensure the individual responsibility for crimes committed but also to remove false impressions of collective responsibility. Initiatives were also being taken to rebuild all religious sites and to guarantee full freedom of religion as a basis for rebuilding tolerance, respect among peoples and reconciliation.

41. The main instrument for combating violations of human rights was the rule of law and much legislation had recently been adopted in Bosnia and Herzegovina, including an important new election law. Similarly, the basis for fighting corruption and crime was an independent judiciary and new procedures had been implemented to increase the independence of the judiciary; for example, judges and prosecutors were appointed by judicial commissions.

42. Action had also been undertaken to prevent trafficking in human beings, a practice to which Bosnia and Herzegovina had become vulnerable during its transition period. A national action plan had been adopted to prevent trafficking, to protect and provide assistance to the victims and to upgrade the existing legal framework for prosecuting the perpetrators of such crimes. His Government was also working to prevent illegal migrants from entering the country. A State Border Service had been established by the United Nations Mission in Bosnia and Herzegovina (UNMIBH) in June 2000 and a new visa policy was currently in operation which closely corresponded to the "Schengen" policy of the European Union.

43. After 11 September 2001, Bosnia and Herzegovina had joined the Global Alliance to fight terrorism and the national Government, in full cooperation with the governments of both entities, had established a joint anti-terrorist coordination team and adopted a plan of action on prevention of terrorist activities.

44. Unfortunately, in 2001 as in previous years, satisfactory results had not been achieved in the search for missing persons and, following a proposal by the Ministry for Human Rights and Refugees, the adoption of a law on missing persons had been included in the plan of action for 2002.

45. Bosnia and Herzegovina had become a member of the Council of Europe and the jurisdiction of the European Court for Human Rights had thus been extended to its territory. It would shortly be signing the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and its Protocols. Consequently, his Government did not think that the country would need the particular attention of the Commission in 2003. Instead, it planned to continue its own efforts for the promotion and protection of human rights, setting a positive example of successful partnership with the United Nations, multilateral organizations, other Governments and civil society.

The public part of the meeting rose at 11.40 a.m.